

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Oliverson, Phelan, Wray, Zerwas, et al.

H.B. No. 2041

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of freestanding emergency medical care facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 108.002(10), Health and Safety Code, is amended to read as follows:

(10) "Health care facility" means:

(A) a hospital;

(B) an ambulatory surgical center licensed under Chapter 243;

(C) a chemical dependency treatment facility licensed under Chapter 464;

(D) a renal dialysis facility;

(E) a birthing center;

(F) a rural health clinic;

(G) a federally qualified health center as defined by 42 U.S.C. Section 1396d(1)(2)(B); ~~or~~

(H) a freestanding ~~[free-standing]~~ imaging center; or

(I) a freestanding emergency medical care facility, as defined by Section 254.001, including a freestanding emergency medical care facility that is exempt from the licensing requirements of Chapter 254 under Section 254.052(8).

SECTION 2. Section 241.202, Health and Safety Code, is

1 amended to read as follows:

2           Sec. 241.202. ADVERTISING. A facility described by Section  
3 241.201:

4           (1) may not advertise or hold itself out as a medical  
5 office, facility, or provider other than an emergency room if the  
6 facility charges for its services the usual and customary rate  
7 charged for the same service by a hospital emergency room in the  
8 same region of the state or located in a region of the state with  
9 comparable rates for emergency health care services; and

10           (2) must comply with the regulations in Section  
11 254.157.

12           SECTION 3. Subchapter I, Chapter 241, Health and Safety  
13 Code, is amended by adding Section 241.205 to read as follows:

14           Sec. 241.205. DISCLOSURE STATEMENT REQUIRED. A facility  
15 described by Section 241.201 shall comply with Section 254.156.

16           SECTION 4. Section 254.104, Health and Safety Code, is  
17 amended to read as follows:

18           Sec. 254.104. FREESTANDING EMERGENCY MEDICAL CARE FACILITY  
19 LICENSING FUND. All fees and administrative penalties collected  
20 under this chapter shall be deposited in the state treasury to the  
21 credit of the freestanding emergency medical care facility  
22 licensing fund and may be appropriated to the department only to  
23 administer and enforce this chapter.

24           SECTION 5. Section 254.155, Health and Safety Code, is  
25 amended by amending Subsections (a), (b), and (d) and adding  
26 Subsection (e) to read as follows:

27           (a) A facility shall post notice that:

1 (1) states:

2 (A) the facility is a freestanding emergency  
3 medical care facility;

4 (B) the facility charges rates comparable to a  
5 hospital emergency room and may charge a facility fee;

6 (C) a facility or a physician providing medical  
7 care at the facility may ~~[not]~~ be an out-of-network ~~[a~~  
8 ~~participating]~~ provider for ~~[in]~~ the patient's health benefit plan  
9 provider network; and

10 (D) a physician providing medical care at the  
11 facility may bill separately from the facility for the medical care  
12 provided to a patient; and

13 (2) either:

14 (A) lists the health benefit plans in which the  
15 facility is an in-network ~~[a participating]~~ provider in the health  
16 benefit plan's provider network; or

17 (B) states the facility is an out-of-network ~~[not~~  
18 ~~a participating]~~ provider for all ~~[in any]~~ health benefit plans  
19 ~~[plan provider network]~~.

20 (b) The notice required by this section must be posted  
21 prominently and conspicuously:

22 (1) at the primary entrance to the facility;

23 (2) in each patient treatment room;

24 (3) at each location within the facility at which a  
25 person pays for health care services; and

26 (4) on the home page of the facility's Internet website  
27 or on a different page available through a hyperlink that is:

1 (A) entitled "Insurance Information"; and

2 (B) located prominently on the home page.

3 (d) Notwithstanding Subsection (b), a facility that is an  
4 in-network [~~a participating~~] provider in one or more health benefit  
5 plan provider networks complies with Subsection (a)(2) if the  
6 facility:

7 (1) provides notice on the facility's Internet website  
8 listing the health benefit plans in which the facility is an  
9 in-network [~~a participating~~] provider in the health benefit plan's  
10 provider network; and

11 (2) provides to a patient written confirmation of  
12 whether the facility is an in-network [~~a participating~~] provider in  
13 the patient's health benefit plan's provider network.

14 (e) A facility may not add to or alter the language of a  
15 notice required by this section.

16 SECTION 6. Subchapter D, Chapter 254, Health and Safety  
17 Code, is amended by adding Sections 254.156, 254.157, and 254.158  
18 to read as follows:

19 Sec. 254.156. DISCLOSURE STATEMENT REQUIRED. (a) In  
20 addition to the notice required under Section 254.155, a facility  
21 shall provide to a patient or a patient's legally authorized  
22 representative a written disclosure statement in accordance with  
23 this section that:

24 (1) lists the facility's observation and facility fees  
25 that may result from the patient's visit; and

26 (2) lists the health benefit plans in which the  
27 facility is a network provider in the health benefit plan's

1 provider network or states that the facility is an out-of-network  
2 provider for all health benefit plans.

3 (b) A facility shall provide the disclosure statement in  
4 accordance with the standards prescribed by Section 254.153(a).

5 (c) The disclosure statement must be:

6 (1) printed in at least 16-point boldface type;

7 (2) in a contrasting color using a font that is easily  
8 readable; and

9 (3) in English and Spanish.

10 (d) The disclosure statement:

11 (1) must include:

12 (A) the name and contact information of the  
13 facility; and

14 (B) a place for the patient or the patient's  
15 legally authorized representative and an employee of the facility  
16 to sign and date the disclosure statement;

17 (2) may include information on the facility's  
18 procedures for seeking reimbursement from the patient's health  
19 benefit plan; and

20 (3) must, as applicable:

21 (A) state "This facility charges a facility fee  
22 for medical treatment" and include:

23 (i) the facility's median facility fee;

24 (ii) a range of possible facility fees; and

25 (iii) the facility fees for each level of  
26 care provided at the facility; and

27 (B) state "This facility charges an observation

1 fee for medical treatment" and include:

2 (i) the facility's median observation fee;

3 (ii) a range of possible observation fees;

4 and

5 (iii) the observation fees for each level  
6 of care provided at the facility.

7 (e) A facility may include only the information described by  
8 Subsection (d) in the required disclosure statement and may not  
9 include any additional information in the statement. The facility  
10 annually shall update the statement.

11 (f) A facility shall provide each patient with a physical  
12 copy of the disclosure statement even if the patient refuses or is  
13 unable to sign the statement. If a patient refuses or is unable to  
14 sign the statement, as required by this section, the facility shall  
15 indicate in the patient's file that the patient failed to sign.

16 (g) A facility shall retain a copy of a signed disclosure  
17 statement provided under this section until the first anniversary  
18 of the date on which the disclosure was signed.

19 (h) A facility is not required to provide notice to a  
20 patient or a patient's legally authorized representative under this  
21 section if the facility determines before providing emergency  
22 health care services to the patient that the patient will not be  
23 billed for the services.

24 (i) A facility complies with the requirements of  
25 Subsections (a)(1) and (d)(3) if the facility posts on the  
26 facility's Internet website in a manner that is easily accessible  
27 and readable:

1           (1) the facility's standard charges, including the  
2 fees described by those subsections; and

3           (2) updates to the standard charges at least annually  
4 or more frequently as appropriate to reflect the facility's current  
5 charges.

6           Sec. 254.157. CERTAIN ADVERTISING PROHIBITED. (a) A  
7 facility may not advertise or hold itself out as a network provider,  
8 including by stating that the facility "takes" or "accepts" any  
9 insurer, health maintenance organization, health benefit plan, or  
10 health benefit plan network, unless the facility is a network  
11 provider of a health benefit plan issuer.

12           (b) A facility may not post the name or logo of a health  
13 benefit plan issuer in any signage or marketing materials if the  
14 facility is an out-of-network provider for all of the issuer's  
15 health benefit plans.

16           (c) A violation of this section is a false, misleading, or  
17 deceptive act or practice under Subchapter E, Chapter 17, Business  
18 & Commerce Code, and is actionable under that subchapter.

19           Sec. 254.158. REMOVAL OF SIGNS. A facility that closes or  
20 for which a license issued under this chapter expires or is  
21 suspended or revoked shall immediately remove or cause to be  
22 removed any signs within view of the general public indicating that  
23 the facility is in operation.

24           SECTION 7. Sections 254.203(a) and (b), Health and Safety  
25 Code, are amended to read as follows:

26           (a) The department may petition a district court for a  
27 temporary restraining order to restrain a continuing violation of

1 the standards or licensing requirements provided under this chapter  
2 or of Section 254.158 if the department finds that the violation  
3 creates an immediate threat to the health and safety of the patients  
4 of a facility or of the public.

5 (b) A district court, on petition of the department and on a  
6 finding by the court that a person is violating the standards or  
7 licensing requirements provided under this chapter or is violating  
8 Section 254.158, may by injunction:

9 (1) prohibit a person from continuing the [~~a~~]  
10 violation [~~of the standards or licensing requirements provided~~  
11 ~~under this chapter~~];

12 (2) restrain or prevent the establishment or operation  
13 of a facility without a license issued under this chapter; or

14 (3) grant any other injunctive relief warranted by the  
15 facts.

16 SECTION 8. Sections 254.205(a) and (c), Health and Safety  
17 Code, are amended to read as follows:

18 (a) The department may impose an administrative penalty on a  
19 person licensed under this chapter who violates this chapter or a  
20 rule or order adopted under this chapter. A penalty collected under  
21 this section or Section 254.206 shall be deposited in the state  
22 treasury to the credit of the freestanding emergency medical care  
23 facility licensing [~~in the general revenue~~] fund described by  
24 Section 254.104.

25 (c) The [~~amount of the~~] penalty may not exceed \$1,000 for  
26 each violation. Each [~~, and each~~] day of a continuing violation may  
27 be considered [~~continues or occurs is~~] a separate violation for

1 purposes of imposing a penalty. [~~The total amount of the penalty~~  
2 ~~assessed for a violation continuing or occurring on separate days~~  
3 ~~under this subsection may not exceed \$5,000.~~]

4 SECTION 9. Notwithstanding Section 108.002, Health and  
5 Safety Code, as amended by this Act, the Department of State Health  
6 Services is not required to collect data from a freestanding  
7 emergency medical care facility under Chapter 108, Health and  
8 Safety Code, unless money is available for that purpose.

9 SECTION 10. This Act takes effect September 1, 2019.

ADOPTED

VV  
MAY 22 2019

*Larry Spaul*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Larry Taylor*

1 Amend H.B. No. 2041 (senate committee report) as follows:

2 (1) In SECTION 6 of the bill, immediately following added  
3 Section 254.156(i), Health and Safety Code (page 3, between lines  
4 51 and 52), insert the following:

5 (j) A facility's failure to obtain the signed disclosure  
6 statement required by this section from the patient or the  
7 patient's legally authorized representative may not be a  
8 determining factor in the adjudication of liability for health care  
9 services provided to the patient at the facility.

10 (2) Add the following appropriately numbered SECTION to the  
11 bill and renumber subsequent SECTIONS of the bill accordingly:

12 SECTION \_\_\_\_ . The Health and Human Services Commission and  
13 the Department of State Health Services are required to implement a  
14 provision of this Act only if the legislature appropriates money  
15 specifically for that purpose. If the legislature does not  
16 appropriate money specifically for that purpose, the commission and  
17 department may, but are not required to, implement a provision of  
18 this Act using other appropriations available for that purpose.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 22, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
 Legislative Budget Board

**IN RE: HB2041** by Oliverson (Relating to the regulation of freestanding emergency medical care facilities.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2041, As Passed 2nd House: a negative impact of (\$879,102) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill. The Health and Human Services Commission (HHSC) and Department of State Health Services (DSHS) are required to implement a provision of the bill only if the Legislature appropriates money specifically for that purpose. If the Legislature does not appropriate money specifically for that person, HHSC and DSHS may, but are not required to, implement a provision of the bill using other appropriations available for that purpose.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$217,461)
2021	(\$661,641)
2022	(\$661,641)
2023	(\$661,641)
2024	(\$661,641)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
2020	(\$217,461)	1.0
2021	(\$661,641)	1.0
2022	(\$661,641)	1.0
2023	(\$661,641)	1.0
2024	(\$661,641)	1.0

## **Fiscal Analysis**

The bill would amend the Health and Safety Code as it relates to the regulation of freestanding emergency medical care facilities. The bill would add freestanding emergency medical care facilities to the list of health care facilities from which the DSHS must capture and report administrative claims data. The reporting requirements would include freestanding emergency medical care facilities that are owned or operated by a licensed or state-owned hospital.

The bill would require all administrative penalties collected under Chapter 254 of the Health and Safety Code to be deposited in the state treasury to the credit of the Freestanding Emergency Medical Care Facility Licensing Fund. Under current law, DSHS may impose an administrative penalty on a person licensed to operate a freestanding emergency medical care facility for violating rules under Chapter 254, and this penalty revenue is deposited to General Revenue.

The bill would not require DSHS to collect data from a freestanding emergency medical care facility unless money is available for that purpose.

The Health and Human Services Commission (HHSC) and DSHS are required to implement a provision of the bill only if the Legislature appropriates money specifically for that purpose. If the Legislature does not appropriate money specifically for that person, HHSC and DSHS may, but are not required to, implement a provision of the bill using other appropriations available for that purpose.

The bill would take effect September 1, 2019.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

## **Methodology**

To implement the provisions of the bill, DSHS indicates that the agency would need to amend its current contract for collecting freestanding emergency medical care data, update the contracted system, process the administrative claims data, and provide help desk activities. According to LBB analysis of DSHS, to begin the collection of the new claims data by September 1, 2020, these activities would cost \$90,000 in fiscal year 2020, and \$450,000 in subsequent fiscal years.

DSHS indicates that the agency would require one FTE to work with its vendor on data collection, manage the data set, and report information related to the data set. DSHS estimates that this additional FTE and other costs associated with the bill, including operating expenses for test client services contracts, capital equipment, and indirect costs, would be \$127,461 in fiscal year 2020 and \$211,641 in subsequent fiscal years.

According to the Comptroller of Public Accounts, the fiscal impact of the bill on administrative penalty revenue cannot be determined, as the number of cases of noncompliance resulting in penalty revenue is unknown.

The estimated total to comply with the provisions of the bill would be \$217,461 in General Revenue in fiscal year 2020 and \$661,641 in subsequent fiscal years.

### **Technology**

Technology costs are estimated to be \$94,134 in fiscal year 2020 and \$454,129 in subsequent fiscal years for FTE seat management activities and updates to the contracted data collection system.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 537 State Health Services, Department of, 304 Comptroller of Public Accounts

**LBB Staff:** WP, CLo, JQ, MNa, AKi

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 10, 2019**

**TO:** Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
 Legislative Budget Board

**IN RE: HB2041** by Oliverson (Relating to the regulation of freestanding emergency medical care facilities.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2041, As Engrossed: a negative impact of (\$879,102) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$217,461)
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2024	(\$661,641)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
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2022	(\$661,641)	1.0
2023	(\$661,641)	1.0
2024	(\$661,641)	1.0

## **Fiscal Analysis**

The bill would amend the Health and Safety Code as it relates to the regulation of freestanding emergency medical care facilities. The bill would add freestanding emergency medical care facilities to the list of health care facilities from which the Department of State Health Services (DSHS) must capture and report administrative claims data. The reporting requirements would include freestanding emergency medical care facilities that are owned or operated by a licensed or state-owned hospital.

The bill would require all administrative penalties collected under Chapter 254 of the Health and Safety Code to be deposited in the state treasury to the credit of the Freestanding Emergency Medical Care Facility Licensing Fund. Under current law, DSHS may impose an administrative penalty on a person licensed to operate a freestanding emergency medical care facility for violating rules under Chapter 254, and this penalty revenue is deposited to General Revenue.

The bill would not require DSHS to collect data from a freestanding emergency medical care facility unless money is available for that purpose.

The bill would take effect September 1, 2019.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

## **Methodology**

To implement the provisions of the bill, DSHS indicates that the agency would need to amend its current contract for collecting freestanding emergency medical care data, update the contracted system, process the administrative claims data, and provide help desk activities. According to LBB analysis of DSHS, to begin the collection of the new claims data by September 1, 2020, these activities would cost \$90,000 in fiscal year 2020, and \$450,000 in subsequent fiscal years.

DSHS indicates that the agency would require one FTE to work with its vendor on data collection, manage the data set, and report information related to the data set. DSHS estimates that this additional FTE and other costs associated with the bill, including operating expenses for test client services contracts, capital equipment, and indirect costs, would be \$127,461 in fiscal year 2020 and \$211,641 in subsequent fiscal years.

According to the Comptroller of Public Accounts, the fiscal impact of the bill on administrative penalty revenue cannot be determined, as the number of cases of noncompliance resulting in penalty revenue is unknown.

The estimated total to comply with the provisions of the bill would be \$217,461 in General Revenue in fiscal year 2020 and \$661,641 in subsequent fiscal years.

## **Technology**

Technology costs are estimated to be \$94,134 in fiscal year 2020 and \$454,129 in subsequent fiscal years for FTE seat management activities and updates to the contracted data collection system.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 537 State Health Services, Department of, 304 Comptroller of Public Accounts

**LBB Staff:** WP, CLo, JQ, MNa, AKi

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 17, 2019**

**TO:** Honorable Senfronia Thompson, Chair, House Committee on Public Health

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2041** by Oliverson (Relating to the regulation of freestanding emergency medical care facilities.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2041, Committee Report 1st House, Substituted: a negative impact of (\$879,102) through the biennium ending August 31, 2021.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$217,461)
2021	(\$661,641)
2022	(\$661,641)
2023	(\$661,641)
2024	(\$661,641)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
2020	(\$217,461)	1.0
2021	(\$661,641)	1.0
2022	(\$661,641)	1.0
2023	(\$661,641)	1.0
2024	(\$661,641)	1.0

## **Fiscal Analysis**

The bill would amend the Health and Safety Code as it relates to the regulation of freestanding emergency medical care facilities. The bill would add freestanding emergency medical care facilities to the list of health care facilities from which the Department of State Health Services (DSHS) must capture and report administrative claims data. The reporting requirements would include freestanding emergency medical care facilities that are owned or operated by a licensed or state-owned hospital.

The bill would require all administrative penalties collected under Chapter 254 of the Health and Safety Code to be deposited in the state treasury to the credit of the Freestanding Emergency Medical Care Facility Licensing Fund. Under current law, DSHS may impose an administrative penalty on a person licensed to operate a freestanding emergency medical care facility for violating rules under Chapter 254, and this penalty revenue is deposited to General Revenue.

The bill would not require DSHS to collect data from a freestanding emergency medical care facility unless money is available for that purpose.

The bill would take effect September 1, 2019.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

## **Methodology**

To implement the provisions of the bill, DSHS indicates that the agency would need to amend its current contract for collecting freestanding emergency medical care data, update the contracted system, process the administrative claims data, and provide help desk activities. According to LBB analysis of DSHS, to begin the collection of the new claims data by September 1, 2020, these activities would cost \$90,000 in fiscal year 2020, and \$450,000 in subsequent fiscal years.

DSHS indicates that the agency would require one FTE to work with its vendor on data collection, manage the data set, and report information related to the data set. DSHS estimates that this additional FTE and other costs associated with the bill, including operating expenses for test client services contracts, capital equipment, and indirect costs, would be \$127,461 in fiscal year 2020 and \$211,641 in subsequent fiscal years.

According to the Comptroller of Public Accounts, the fiscal impact of the bill on administrative penalty revenue cannot be determined, as the number of cases of noncompliance resulting in penalty revenue is unknown.

The estimated total to comply with the provisions of the bill would be \$217,461 in General Revenue in fiscal year 2020 and \$661,641 in subsequent fiscal years.

## **Technology**

Technology costs are estimated to be \$94,134 in fiscal year 2020 and \$454,129 in subsequent fiscal years for FTE seat management activities and updates to the contracted data collection system.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 537 State Health Services,  
Department of

**LBB Staff:** WP, AKi, MNa

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**March 19, 2019**

**TO:** Honorable Senfronia Thompson, Chair, House Committee on Public Health

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
 Legislative Budget Board

**IN RE: HB2041** by Oliverson (Relating to the regulation of freestanding emergency medical care facilities.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2041, As Introduced: a negative impact of (\$654,713) through the biennium ending August 31, 2021. The bill would have an indeterminate impact on penalty revenue, as data is not available for the number of cases of noncompliance.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	(\$217,461)
2021	(\$437,252)
2022	(\$438,193)
2023	(\$439,153)
2024	(\$440,132)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
2020	(\$217,461)	1.0
2021	(\$437,252)	1.0
2022	(\$438,193)	1.0
2023	(\$439,153)	1.0
2024	(\$440,132)	1.0

## **Fiscal Analysis**

The bill would amend the Health and Safety Code as it relates to the regulation of freestanding emergency medical care facilities. The bill would add freestanding emergency medical care facilities to the list of health care facilities from which the Department of State Health Services (DSHS) must capture and report administrative claims data.

The bill would require all administrative penalties collected under Chapter 254 of the Health and Safety Code to be deposited in the state treasury to the credit of the Freestanding Emergency Medical Care Facility Licensing Fund. Under current law, DSHS may impose an administrative penalty on a person licensed to operate a freestanding emergency medical care facility for violating rules under Chapter 254, and this penalty revenue is deposited to General Revenue.

The bill would take effect September 1, 2019.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

## **Methodology**

To implement the provisions of the bill, DSHS indicates that the agency would need to amend its current contract for collecting freestanding emergency medical care data, update the contracted system, process the administrative claims data, and provide help desk activities. According to LBB analysis of DSHS, to begin the collection of the new claims data by September 1, 2020, these activities would cost \$90,000 in fiscal year 2020, and \$260,000 in subsequent fiscal years.

DSHS indicates that the agency would require one FTE to work with its vendor on data collection, manage the data set, and report information related to the data set. DSHS estimates that this FTE would cost \$60,465 in fiscal year 2020, and \$88,063 in each subsequent fiscal year.

DSHS estimates that other costs associated with the bill, including operating expenses for test client services contracts, capital equipment, and indirect costs from the indirect rate, would be \$66,996 in fiscal year 2020, and \$89,189 in future fiscal years.

According to the Comptroller of Public Accounts, the fiscal impact of the bill on administrative penalty revenue cannot be determined, as the number of cases of noncompliance resulting in penalty revenue is unknown.

The estimated total to comply with the provisions of the bill would be \$217,461 in General Revenue in fiscal year 2020, \$437,252 in fiscal year 2021, \$438,193 in fiscal year 2022, \$439,153 in fiscal year 2023, and \$440,132 in fiscal year 2024.

## **Technology**

Technology costs are estimated to be \$94,134 in fiscal year 2020 and \$264,129 in subsequent fiscal years for FTE seat management activities and updates to the contracted data collection system.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 529 Health and Human Services Commission, 537 State Health Services, Department of

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